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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/440,692	11/16/1999	TETSURO MOTOYAMA	5244-0104-2X	3301

22850 7590 11/19/2003

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER

ZIA, SYED

ART UNIT	PAPER NUMBER
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2131

DATE MAILED: 11/19/2003

16

Please find below and/or attached an Office communication concerning this application or proceeding.

1

Office Action Summary

Application No.

09/440,692

Applicant(s)

MOTOYAMA ET AL.

Examiner

Syed Zia

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on September 25, 2003 has been entered.

Response to Amendment

Original application contained Claims 1-32. Applicant amended Claims 1, 9, 17 and 25. The amendment filed on July 16, 2003 (Paper No. 11) have been entered and made of record, and subject to receiving a signed copy from applicant. Therefore, presently pending claims are 1-32.

Response to Arguments

Applicant's arguments filed July 16, 2003 (Paper No. 11) have been fully considered but they are not persuasive because of the following reasons:

Applicants argued that cited prior art does not teach the currently amended Claims 1, 9, 17, and 25 limitation “ *bi-directional communication without requiring input from a device to which the message of the monitored data is communicated is required to communicate the message of the monitored data*”, and “ *the monitoring device includes a control to automatically start the monitoring when the target application starts up, without an input from a device to which the message of the monitored data is to be communicated*”

This is not found persuasive. One feature of the present invention is to monitor user's usage, and effectively communicate data of the monitored usage by email (Please refer page 18 line 3 to line 10 of applicants' disclosure statement). As illustrated in Fig.6A the communication agent between component 308 and 312 is TCP/IP connection component 308 (Please refer page 14 line 3 to 24 applicants' disclosure statement). Therefore, although there is unidirectional traffic is originated between sender 302 and receiver 318, but this invention is inherently capable to send and manage bi-directional mode.

Therefore, the examiner asserts that APA does teach or suggest the subject matter broadly recited in independent Claims 1, 9, 17, 25, and dependent Claims 2-8, 10-16, 18-24, and 26-32.

Accordingly, rejections for Claims 1-32 are respectfully maintained.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

1. Claims 1-32 are rejected under 35 U.S.C. 102(e) as being anticipated by Allard et al. U. S. Patent 6,018,619.

2. Regarding claims 1, 9, 17 and 25 Allard teaches and describes a system and method for tracking user activity on information servers, that relates to client-side usage tracking for computers connected by a communications network according to the client-server model, comprising (Fig1-3):

- an interface of a target application, the interface comprising a plurality of operations to be selected by a user (col. 1 line 50 to line 60 and col. 5 line 22 to line 26);

- a monitoring device configured to monitor data of selecting of the plurality of operations of the interface by the user, and to encode and store the monitored data into a log-file (col.5 line 1 to line 3, and col.9 line 10 to line 19);

- a communicating device configured to receive the log file of the monitored data, to decode the stored encoded log file, to create a message of the monitored data, and to then communicate the message of the monitored data (col.9 line 10 to line 42);

-wherein the monitoring device includes a control to automatically start the monitoring when the target application starts up, without an input from a device to which the message of the monitored data is to be communicated (col.10 line 11 to line 29); and

wherein the communication device includes a control to automatically communicate the message of the monitored data by a unidirectional communication without requiring input from the device to which the message of the monitored data is to be communicated (col.11 line 48 to col.12 line 67).

3. Claims 2-6, 10-16, 18-24 and 26-32 are rejected applied as above rejecting claims 1, 9, 17 and 25. Furthermore, Allard teaches and describes that generally relates to network monitoring systems, and particularly relates to a client side usage monitoring and processing by recording user interaction with application software in a network environment, comprising:

- the target application is a software application and the interface is a display screen of the software application; and the target application is an image forming device and the interface is an operation panel of the image forming device; and the target application is an appliance and the interface is an operation panel of the appliance (col. 4 line 58 to line 61 and col. 2 line 29 to line 40);

- the communicating device sends the log of the monitored data when the user exits the target application (col. 5 line 55 to col. 6 line 7);

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- a setting unit configured to set a number of sessions of the target application to be executed by the user prior to the communicating device communicating the log file of the monitored data (col. 4 line 62 to line 65);

- the monitoring device encodes the monitored data into the log file and the communicating device decodes the monitored data from the log file by defining the encoding and decoding objects as abstract classes and defining derived classes to include encoding and decoding algorithms (Fig. 3, Abstract, and col. 11 line 11 to line 21 and col. 11 line 62 to col. 12 line 10).

- the communicating device communicates the log of the monitored data by Internet mail (Fig. 1 and col. 5 line 36 to line 43).

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Conclusion

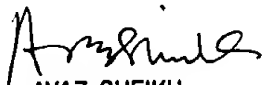
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Syed Zia whose telephone number is 703-305-3881. The examiner can normally be reached on Monday - Friday 9:00 AM to 5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz Sheikh can be reached on 703-305-9648. The fax phone number for the organization where this application or proceeding is assigned is 703-746-7239.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-746-7240.

SZ

November 16, 2003


AYAZ SHEIKH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100